

## ***Caltrans Native American Advisory Committee***

### ***Quarterly Meeting Minutes***

***May 1, 2001***

Chairperson Ben Scerato called the meeting to order at 9:06 a.m.

**Opening Prayer:** Committee member Albert Phoenix opened the meeting with prayer.

**Roll Call:** Cynthia Gomez called Roll. Committee members in attendance were Everett Freeman, Joseph Garcia, Sr., Benjamin Magante, Bo Mazzetti, Joseph Myers, Albert Phoenix, William H. Richards, Sr., Joe Sanchez, Ted Sanchez, Ben Scerato, and Garth (Randy) Sunberg, Jr. Committee Alternate members in attendance were Jack Biondini and Cassandra Hensher.

**Adopt Agenda:** Cassandra Hensher requested that the Committee add a discussion of roadside vegetation to the Agenda under "Old Business." Joe Myers requested that the topic of the placement of the Native American Liaison Branch within Caltrans (under the Director's office) be added to "New Business." The Committee accepted the Agenda, with the addition of the two items. Motion by Benjamin Magante; Second by Joseph Myers. Vote was 13 For, 0 Against, 0 Abstain.

**Approve Minutes:** The Committee approved the Minutes of the February 1, 2001, meeting. Motion by Joseph Myers; Second by Benjamin Magante. Vote was 13 For, 0 Against, 0 Abstain.

**Welcome/Introductions:** Ben Scerato welcomed all in attendance and introduced Jeff Morales, Director, Caltrans. Mr. Scerato congratulated the Director on the recent confirmation of the Director's appointment.

**Director's Comments:** Director Morales emphasized his concern for Indian issues and stated that Caltrans would improve where it was necessary and the Department is able to do so. The Director said that there has been huge investment in transportation in California and that the Committee has and can play a big part in Caltrans' progress. He referred to the changes in destination signage, maintenance, and hopefully finalizing the Director's Partnership policy, as well as recognizing the sensitive cultural and natural resources as all being part of the progress. Steps have been taken to protect natural resources and vegetation.

Director Morales mentioned that he had sent a letter to the Department of the Interior, Assistant Secretary – Indian Affairs, in support of the Indian Reservation Roads (IRR) program small tribes formula that is favored by California Tribes.

Also, he said that focus should be placed on Tribes reaching out to Caltrans, Metropolitan Planning Organizations (MPO's) and Regional Transportation Planning Agencies (RTPA's), emphasizing that the regional agencies control three-fourths of the spending and that the Tribes must engage them and be included in the planning process.

In summary, the Director spoke to the good start that has been made by his office and the Committee, and he is looking forward to continuing to work with the Committee.

Joseph Myers commented that the Liaison position is key to coordinating efforts in California transportation and that the Tribes need assurance that the political support and clout is there. He emphasized that it is important to make the position effective. Director Morales assured the Committee that the commitment is there and that the placement of the Liaison position is one of practicality. The Director likes the organization as it is now and will continue to work to make it effective. His view is that the current structure provides a priority for Indian issues and he expects results to speak for themselves.

Bo Mazzetti indicated that the Executive Committee members meet with the Director, separately, and that timeframes are set for accomplishing tasks or at least getting answers regarding the issues and that the Committee is appreciative.

Ben Scerato extended his thanks, on behalf of the Committee, to Director Morales for attending the meeting.

## **OLD BUSINESS:**

1. **Negotiated Rule Making Update.** Kanu Patel, Road Engineer, BIA Pacific Region, reported that the BIA was finalizing the guideline process for the Indian Reservation Roads (IRR) program, and would be sending the guidelines to the Rulemaking committee to iron out problems.

Mr. Patel, also, reported that the deadline for Tribes to apply for planning funding had been extended from March 15<sup>th</sup> to May 15<sup>th</sup>. Ninety-seven Tribes have applied to date. In responding to a query from Ben Scerato about whether Tribes had technical assistance, Mr. Kanu said that the BIA provides such assistance to all Tribes. There is \$19.5 million new money available for the nation this year, and \$3,290,000 will be coming to California.

During this discussion, Ben Scerato said that he recommended that Bo Mazzetti replace him on the Negotiated Rulemaking Committee.

At this time, Joe Sanchez provided an update on the Susanville Indian Rancheria road project. The biggest delaying factor is that both Caltrans and the County want indemnification from suit. They do not want to accept any liability for the project and they wanted a written assurance that the BIA will maintain the road. Negotiations are continuing on the agreement among all

parties in order to complete the project. Both Messrs. Mazzetti and Scerato echoed the sentiment that the counties in the State need educating regarding Tribal sovereignty and their status as public agencies, rather than private ones. Mr. Scerato voiced concern that if the BIA committed maintenance funding to the Bureau's portion of the Susanville project there would not be any funding left to maintain other BIA roads in California.

Cynthia Gomez commented that Thom Niesen, Director, District 2, Caltrans, had requested that she relay his appreciation to the Susanville Indian Rancheria and the BIA for their dedication and patience in the efforts that are being made to successfully complete this project.

Kanu Patel commented that Tom Niesen has been very helpful and is dedicated to seeing the Susanville project completed.

Joe Myers emphasized that the fact that counties do not look at Tribes as governments is an important issue. The Caltrans policy of a government-to-government relationship with Tribes will help to impress upon the counties the nature of the relationship.

Numerous attendees voiced concern and caution when Tribes try to work with county governments.

2. **Acquisition and Leasing Procedures for Tribal Procurement Update.** Joan Sollenberger, Chief, Division of Transportation Planning, indicated that she was awaiting word from Mike Brown, California Department of General Services (DGS), regarding the ability of Tribes to have lease and purchase access to Caltrans equipment. During morning session, Ms. Sollenberger reported that the information had come through that Tribes can participate in the lease/purchase program. Details are not clear regarding how to get the Tribes in system, and Caltrans will use the Reservation Transportation Authority as a test case to learn what DGS needs in the way of paperwork.
3. **California Indian Policy Statement Update.** Joan Sollenberger informed everyone that Director's Policy of a Government-to-Government relationship with Tribes is being circulated within the Caltrans review process. Following the internal review at HQ, the policy will go to all Districts for review. In response to Bo Mazzetti's question whether the Advisory Committee could review the policy prior to finalizing, Cynthia Gomez said that a copy of the draft could be sent to the Committee. Ms. Sollenberger anticipated that the review process should be complete by the time of the next Committee meeting.
4. **IPG Summary, Transferring Funding Among FHWA, BIA and Caltrans.** Wade Hobbs, Urban Transportation Planner, FHWA, said that the FHWA is

doing what it can to work with Tribal issues. No action has been taken by FHWA to resolve funding transfers among the FHWA, Caltrans and the BIA.

Cynthia Gomez commented that the NA Liaison Branch is continuing its efforts to resolve the funding transfer problem. Caltrans Finance is doing what it can to help with a solution.

Bo Mazzetti recommended that a subcommittee be established to work to put together any agreements resulting from consensus among the agencies so that a uniform product will emerge. Ben Scerato suggested that Bo Mazzetti head such a Subcommittee. A motion was made by Albert Phoenix to establish a Subcommittee for Interagency Funding Transfer Agreements. Seconded by Ben Magante. Vote was 13 For, 0 Against, 0 Abstain.

5. **Highway Vegetation.** Cassandra Hensher asked about the status of a vegetation committee that she thought was supposed to be formed following the February 1 Committee meeting. Cynthia Gomez explained that a misunderstanding had occurred between Gary Bush, Landscape Architect, Caltrans, and the rest of the group. Mr. Bush indicated his willingness to work with a committee, but it was not his intent to form one. Ben Scerato reflected that a subcommittee should be designated, and he asked if there were any volunteers. Karen Nissen and Kathleen Sartorius volunteered; and, Kathy Wallace and Dore Bietz had indicated an interest in serving on such a subcommittee when it was discussed at the February meeting. The Committee directed Cynthia Gomez to work with the volunteers to develop procedural guidelines and report at the next meeting.

## **NEW BUSINESS:**

1. **Caltrans Planning Process.** Sharon Scherzinger, Chief, Office of Regional and Interagency Planning, Caltrans, made a presentation of the process used by Caltrans to plan transportation projects. Joe Myers inquired as to whether an Indian project had gone through the planning process and been funded or prioritized. Cynthia Gomez indicated that the Susanville project touched on the process, but was not literally a regular planning product. There is little regional acceptance of Tribes as planning partners.
2. **Subcommittee Formation.** Cynthia Gomez, Chief, Native American Liaison Branch, Caltrans, presented to the Committee a proposal to establish a subcommittee to address environmental problems encountered by Tribes with Caltrans. The purpose of the subcommittee would be to review environmental issues that pertain to the Native American ancestral land, cultural resources and the responsibilities of Caltrans. The recommendation for the composition of the subcommittee was: 2 NAAC; 1 Caltrans Planning lead staff; 1 Caltrans Environmental; 3 Tribal; 1 Native American Heritage Commission; 1

State Historic Preservation Office; 1 BIA; 1 FHWA. Kathleen Sartorius voiced the thought that the regional Native American Liaisons should be involved with such a subcommittee. Cassandra Hensher said that the California Indian Basketweavers Association should be on the subcommittee. Joe Myers commented that it seemed logical that the Highway Vegetation Subcommittee be a part of an environmental subcommittee formed. Joan Sollenberger replied that most efforts undertaken by an environmental subcommittee would be directed at project cultural resource issues rather than vegetation. Motion by Bo Mazzetti to form an Environmental Subcommittee. Second by Ben Magante. Vote was 13 For, 0 Against, 0 Abstain.

3. **Tribal Transportation Conference.** Ted Sanchez, American Indian State Employees of California (AISEC), announced that the 2001 Tribal Transportation Conference would be held at Jackson Rancheria on July 31<sup>st</sup> and August 1<sup>st</sup>. Bo Mazzetti inquired as to how the AISEC became involved in sponsoring the conference. Ted said that he would check into this.
4. **Liaison Position in Caltrans.** Joe Myers indicated that he was satisfied with the position of the Liaison function following Director Morales' earlier comments.

#### **CALTRANS REPORTS:**

**Cynthia Gomez, Chief, Native American Liaison Branch.** Ms. Gomez introduced her staff again, describing how Jila Priebe's responsibilities lie largely in completing fieldwork with the Tribes and other agencies, while Betty Miller is responsible for establishing a resource of information and a home base for the program. The District 8 Caltrans employee continues working with the RTA and will do so for another year. District 11 has advertised for a Native American Liaison position; however, the position has not yet been filled. Ms. Gomez reported that the Branch continues to work with the Districts and the Tribes.

In response to a query from Martin Martinez, it was announced that work is continuing on setting up the Tribal Transportation Academy to be held sometime in late July.

Ms. Gomez requested that the Committee provide an alternate to attend the May session of the Caltrans Transportation Planning Academy.

**Karen Nissen, Central Region Liaison.** Ms. Nissen reported that she is working to put a workshop together for project mitigation as dictated by cultural resource laws. She brought copies of a mural that will be displayed on Highway 99 as part of a Highway Art Mural program. Ms. Nissen also reported that she is working on the Tribal Transportation Conference.

**Kathleen Sartorius, Northern Region Liaison.** Ms. Sartorius reported that she has added Tribal ancestral lands to District project maps. She indicated that four projects are being held up by Caltrans' inability to contract with Tribes, although, in fact, Caltrans does contract with Tribes.

**Angel Carrera, Civil Rights, Caltrans.** Mr. Carrera announced that Theresa Speake would be taking over Lorn ElkRobe's activities on a temporary basis. Mr. ElkRobe's email and phone calls are being forwarded to the rest of the Civil Rights staff.

#### **ANNOUNCEMENTS/OPEN FORUM:**

Brian Smith, Deputy Director, Planning and Modal Programs, expressed his satisfaction that the Tribes will now be able to access the Caltrans lease/purchase program and apologized for the delay in bringing it about.

Joe Myers suggested that Caltrans work with agencies at the local level to develop consultation policies with the Tribes. The procedures for such consultation will be in place with the approval of the Director's Policy and the Deputy Directive. Mr. Myers offered his assistance in developing the policies. Ben Scerato said that he would recommend such a position by Caltrans to Director Morales during their upcoming meeting of that afternoon.

Joan Sollenberger announced that a letter is going to be sent to the Districts with instructions to work with Tribes early in the planning process.

Wade Hobbs announced that the FHWA Public Lands discretionary funds are available. He indicated that a letter had been sent to the BIA regarding the funding availability. Kanu Patel said that the letter had, in turn, been mailed to all of the California Tribes by the BIA Pacific Region office. Deadline for the applications to Caltrans is June 15, 2001.

Cynthia Gomez announced that Joe Loya, TERO Officer, Torres Martinez, has been selected as the southwest's representative to the National Tribal Employment Rights Office (TERO) Board. Margaret Powell, TERO Officer, Hoopa Valley Tribe, has been selected as the northwest's representative to the Board.

Karen Nissen has been recommended by Tule River Reservation to serve on the Scientific Advisory Board to the Giant Sequoia Monument.

Betty Miller, NA Liaison Branch, reported that a sample application had been forwarded to DGS, Surplus Property, for the purpose of enabling Tribes to access the

State's surplus items. Following review of the application, DGS will notify the NALB if further information is required. After the process is outlined, Caltrans will advise the Tribes.

**ADJOURNMENT:**

Albert Phoenix moved to adjourn the meeting. Ben Magante seconded the motion. Vote was 13 For, 0 Against, 0 Abstain. Ben Scerato adjourned the meeting at 2:38 p.m.

Submitted by: Betty Miller  
Native American Liaison Branch